

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

TORNELLO FONTAINE)	
PIERCE EL-BEY,)	
)	
Plaintiff,)	
)	
v.)	1:11CV413
)	
CITY OF THOMASVILLE, WAYNE I.)	
MICHAEL, CITY OF THOMASVILLE)	
POLICE DEP'T, MARLENE)	
HAMMOND, C.S. LEONARD,)	
NC DIVISION OF MOTOR VEHICLE,)	
and MICHAEL/MIKE ROBERTSON,)	
)	
Defendants.)	

ORDER

This matter is before this court for review of the Memorandum Opinion, Order and Recommendation ("Recommendation") filed on March 30, 2012, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 56.) In the Recommendation, the Magistrate Judge recommends that the Motion to Dismiss filed by Defendants NC Division of Motor Vehicle and Mike Robertson (Doc. 9) be granted, that the Motion to Dismiss filed by Defendants Marlene Hammond and Wayne L. Michael (Doc. 17) be granted, and that the Motion to Dismiss filed by Defendants City of Thomasville, the City of Thomasville Police Department, and C.S.

Leonard (Doc. 24), be granted with the sole exception that additional briefing should be allowed as to Plaintiff's claim of a Fourth Amendment violation based upon Defendant Leonard's search of Plaintiff's vehicle. The Magistrate Judge further recommends that Plaintiff's Motion for Summary Judgment (Doc. 37) and Plaintiff's Motion for Judgment on the Pleadings (Doc. 39) be denied.

The Recommendation was served on the parties to this action on April 2, 2012. Plaintiff filed an Affidavit of Truth (Doc. 58) which will be construed as objections to the Recommendation.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation (Doc. 56) is **ADOPTED**. **IT IS FURTHER ORDERED** that the Motion to Dismiss filed by Defendants NC Division of Motor Vehicle and Mike Robertson (Doc. 9) is **GRANTED**, that the Motion to Dismiss filed by Defendants Marlene Hammond and Wayne L. Michael (Doc. 17) is **GRANTED**, and that the Motion to Dismiss filed by Defendants City of Thomasville, the City of Thomasville Police Department, and C.S. Leonard (Doc. 24) is **GRANTED** with the sole exception that additional briefing is allowed as to Plaintiff's claim of a Fourth Amendment violation based upon Defendant Leonard's search of Plaintiff's vehicle.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (Doc. 37) and Plaintiff's Motion for Judgment on the Pleadings (Doc. 39) are **DENIED**.

This the 30th day of September, 2013.


United States District Judge